February 20, 2009

HOUSE BILL No. 1572

DIGEST OF HB 1572 (Updated February 19, 2009 11:31 am - DI 77)

Citations Affected: IC 2-5; IC 12-15; noncode.

Synopsis: Medicaid managed care. Requires the office of Medicaid policy and planning to establish a uniform prescription drug formulary to be administered by a managed care organization that contracts with the office to provide services under the Medicaid program. Requires payment for services under the Medicaid program in a hospital setting to be based on the individual's presenting symptoms and the services required to triage, diagnose, and treat the individual. Prohibits the denial of payment for services that are medically necessary solely because the provider did not obtain prior authorization in a timely manner. Requires the health policy advisory committee to study and make recommendations on certain topics.

Effective: Upon passage.

Welch, Brown C, Crawford

January 16, 2009, read first time and referred to Committee on Public Health.
February 19, 2009, amended, reported — Do Pass.

February 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1572

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. ~~Beginning May 1, 1997,~~ **(a)** The health policy advisory committee is established. At the request of the chairman **of the commission,** the health policy advisory committee shall provide information and otherwise assist the commission to perform the duties of the commission under this chapter.

(b) The health policy advisory committee members are ex officio and may not vote.

(c) The health policy advisory committee members shall be appointed from the general public and must include one (1) individual who represents each of the following:

(1) The interests of public hospitals.

(2) The interests of community mental health centers.

(3) The interests of community health centers.

(4) The interests of the long term care industry.

(5) The interests of health care professionals licensed under IC 25, but not licensed under IC 25-22.5.

(6) The interests of rural hospitals. An individual appointed under this subdivision must be licensed under IC 25-22.5.

(7) The interests of health maintenance organizations (as defined in IC 27-13-1-19).

(8) The interests of for-profit health care facilities (as defined in IC 27-8-10-1).

(9) A statewide consumer organization.

(10) A statewide senior citizen organization.

(11) A statewide organization representing people with disabilities.

(12) Organized labor.

(13) The interests of businesses that purchase health insurance policies.

(14) The interests of businesses that provide employee welfare benefit plans (as defined in 29 U.S.C. 1002) that are self-funded.

(15) A minority community.

(16) The uninsured. An individual appointed under this subdivision must be and must have been chronically uninsured.

(17) An individual who is not associated with any organization, business, or profession represented in this subsection other than as a consumer.

(d) The chairman of the commission shall annually select a member of the health policy advisory committee to serve as chairperson.

(e) The health policy advisory committee shall meet at the call of the chairperson of the health policy advisory committee.

(f) The health policy advisory committee shall submit quarterly reports to the commission and the select joint commission on Medicaid oversight that summarize the committee's actions and the committee's findings and recommendations on any topic assigned to the committee. The report must be in an electronic format under IC 5-14-6.

SECTION 2. IC 12-15-12-4.5, AS ADDED BY P.L.101-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. **(a)** A managed care provider's contract or provider agreement with the office may include a prescription drug program, subject to IC 12-15-5-5, IC 12-15-35, and IC 12-15-35.5.

(b) Beginning January 1, 2010, the office shall establish a uniformed prescription drug formulary to be administered and managed by the Medicaid managed care companies. Each managed care provider that has contracted with the office under IC 12-15-30 shall submit to the office recommendations of

prescription drugs to be added to the formulary. The office shall use its discretion to determine the process for review, edits, and additions to the formulary as required by the drug utilization review board. The prescription drug formulary is not required to be the same as the drug utilization review board's preferred drug list established by IC 12-15-35.

SECTION 3. IC 12-15-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A Medicaid recipient may be admitted to a hospital by a physician other than the recipient's managed care provider if the recipient requires immediate medical treatment.

(b) The admitting physician shall notify the recipient's managed care provider of the recipient's admission not more than forty-eight (48) hours after the recipient's admission.

(c) Payment for services provided **to** a recipient **who presents or is** admitted to a hospital under this section shall be made:

(1) based on the recipient's presenting symptoms and the services required to appropriately triage, diagnose, and treat the recipient as required under federal law; and

(2) ~~only~~ for services that the office or the contractor under IC 12-15-30 determines were medically reasonable and necessary.

(d) The office or a managed care organization that has contracted with the office to provide coverage for Medicaid recipients shall reimburse as follows:

(1) A physician, at:

(A) a rate of one hundred percent (100%) of rates payable under the Medicaid fee structure; or

(B) a contractually agreed upon rate between the physician and the managed care organization;

for professional emergency physician screening services provided under current procedural terminology (CPT) codes 99281 through 99283.

(2) A hospital, for all medically necessary screening services provided to an individual who presents to the emergency department with symptoms that may be an emergency medical condition.

(e) The office or a managed care organization may not do the following:

(1) Determine what constitutes an emergency on the basis of lists of diagnoses or symptoms.

(2) Deny payment for a treatment provided when an individual has an emergency medical condition, even if the

outcome, in the absence of immediate medical attention, would not have been an outcome specified in the definition of an emergency medical condition.

(f) The office may adopt rules under IC 4-22-2 to provide reimbursement for screening services provided in an emergency department of a hospital licensed under IC 16-21 that are not a covered service as of January 1, 2009.

(g) The office or a contractor under IC 12-15-30 may not refuse payment for services that are medically necessary on the sole basis that the provider did not obtain prior authorization in a timely manner.

(h) The office shall apply for an amendment to the state Medicaid plan if an amendment is necessary to carry out the requirements of this section.

SECTION 4. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "advisory committee" refers to the health policy advisory committee established by IC 2-5-23-8.**

(b) Before July 1, 2010, the advisory committee shall study and make recommendations concerning the following:

(1) Whether the office of Medicaid policy and planning should expedite review of an infant's placement and determine that the infant is at a level of institutionalization that would qualify the child for federal Supplemental Security Income in situations in which an infant:

(A) is a patient in, or is anticipated to need care in, a neonatal or perinatal intensive care setting for at least thirty (30) days; or

(B) has an illness that falls in the diagnosis related group (DRG) category list used by the office that would qualify the infant as disabled.

(2) Whether the office of Medicaid policy and planning should publish on the office's web site the diagnosis related group (DRG) category list used by the office in subdivision (1)(B).

(3) The minimum time needed to conduct an expedited review under subdivision (1).

(4) The uniform definitions that a managed care organization that has contracted with the office under IC 12-15-30 must have, including the following terms:

(A) "Administrative denial".

(B) "Appeal".

(C) "Complaint".

(D) "Grievance".

(E) "Inquiry".

(F) "Medical necessity denial".

(G) "Reconsideration".

(H) Any other definitions outlined by the National Commission on Quality Assurance.

(5) The uniform procedures that a managed care organization that has contracted with the office under IC 12-15-30 must have, including a uniform procedure for the following:

(A) Credentialing that allows a provider to be credentialed one (1) time for participation in any Medicaid program.

(B) Claims processing.

(6) The uniform process and form to be used by managed care organizations that have contracted with the office of Medicaid policy and planning under IC 12-15-30, including the following forms:

(A) A denial of a claim form.

(B) An appeals process form.

(C) A prior authorization form.

(D) Any other forms that are necessary for consistency and standardization according to National Commission on Quality Assurance accreditation criteria.

(7) The prevalence of reclassification of an initial request made by a provider, including a request for appeal.

(8) Simplified uniform reporting criteria for the following:

(A) Pharmacy claim reviews, including denials, appeals, and overturns.

(B) Medical necessary prior authorization approvals, denials, and overturns.

(C) Administrative denials, appeals, and overturns.

(9) The current state data reporting metrics.

(10) Any needed revisions to the reporting requirements to comply with the National Commission on Quality Assurance reporting and outcome standards.

(c) Before June 1, 2009:

(1) the president pro tempore of the senate shall appoint members of the advisory committee as required under IC 2-5-23-9; and

(2) the speaker of the house of representatives shall appoint members of the advisory committee as required under IC 2-5-23-10.

(d) This SECTION expires July 1, 2010.

SECTION 5. **An emergency is declared for this act.**

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1572, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 15, begin a new paragraph and insert:

"SECTION 1. IC 2-5-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. ~~Beginning May 1, 1997,~~ **(a)** The health policy advisory committee is established. At the request of the chairman **of the commission,** the health policy advisory committee shall provide information and otherwise assist the commission to perform the duties of the commission under this chapter.

(b) The health policy advisory committee members are ex officio and may not vote.

(c) The health policy advisory committee members shall be appointed from the general public and must include one (1) individual who represents each of the following:

(1) The interests of public hospitals.

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(3) The interests of community health centers.

(4) The interests of the long term care industry.

(5) The interests of health care professionals licensed under IC 25, but not licensed under IC 25-22.5.

(6) The interests of rural hospitals. An individual appointed under this subdivision must be licensed under IC 25-22.5.

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(12) Organized labor.

(13) The interests of businesses that purchase health insurance policies.

(14) The interests of businesses that provide employee welfare benefit plans (as defined in 29 U.S.C. 1002) that are self-funded.

(15) A minority community.

(16) The uninsured. An individual appointed under this subdivision must be and must have been chronically uninsured.

(17) An individual who is not associated with any organization,

business, or profession represented in this subsection other than as a consumer.

(d) The chairman of the commission shall annually select a member of the health policy advisory committee to serve as chairperson.

(e) The health policy advisory committee shall meet at the call of the chairperson of the health policy advisory committee.

(f) The health policy advisory committee shall submit quarterly reports to the commission and the select joint commission on Medicaid oversight that summarize the committee's actions and the committee's findings and recommendations on any topic assigned to the committee. The report must be in an electronic format under IC 5-14-6.".

Page 2, line 2, reset in roman "may".

Page 2, line 2, delete "shall".

Page 2, line 5, delete "each managed care provider" and insert "**the office shall establish a uniformed prescription drug formulary to be administered and managed by the Medicaid managed care companies. Each managed care provider that has contracted with the office under IC 12-15-30 shall submit to the office recommendations of prescription drugs to be added to the formulary. The office shall use its discretion to determine the process for review, edits, and additions to the formulary as required by the drug utilization review board. The prescription drug formulary is not required to be the same as the drug utilization review board's preferred drug list established by IC 12-15-35.**".

Page 2, delete lines 6 through 10.

Page 2, line 28, delete "the following".

Page 3, delete lines 19 through 42.

Delete pages 4 through 5.

Page 6, delete lines 1 through 41, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "advisory committee" refers to the health policy advisory committee established by IC 2-5-23-8.**

(b) Before July 1, 2010, the advisory committee shall study and make recommendations concerning the following:

(1) Whether the office of Medicaid policy and planning should expedite review of an infant's placement and determine that the infant is at a level of institutionalization that would qualify the child for federal Supplemental Security Income in situations in which an infant:

(A) is a patient in, or is anticipated to need care in, a neonatal or perinatal intensive care setting for at least thirty (30) days; or

(B) has an illness that falls in the diagnosis related group (DRG) category list used by the office that would qualify the infant as disabled.

(2) Whether the office of Medicaid policy and planning should publish on the office's web site the diagnosis related group (DRG) category list used by the office in subdivision (1)(B).

(3) The minimum time needed to conduct an expedited review under subdivision (1).

(4) The uniform definitions that a managed care organization that has contracted with the office under IC 12-15-30 must have, including the following terms:

(A) "Administrative denial".

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(10) Any needed revisions to the reporting requirements to comply with the National Commission on Quality Assurance reporting and outcome standards.

(c) Before June 1, 2009:

(1) the president pro tempore of the senate shall appoint members of the advisory committee as required under IC 2-5-23-9; and

(2) the speaker of the house of representatives shall appoint members of the advisory committee as required under IC 2-5-23-10.

(d) This SECTION expires July 1, 2010.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1572 as introduced.)

BROWN C, Chair

Committee Vote: yeas 11, nays 0.